DOCKET NO.: 244927US90/mya

ND TRADEMARK OFFICE

IN RE APPLICATION OF:

Sung Uk MOON, et al.

SERIAL NO: 10/699,820

GROUP: 2681

FILED:

November 4, 2003

EXAMINER:

FOR:

RADIO COMMUNICATION SYSTEM, A RADIO STATION SUITABLY

USED FOR THE SAME

LETTER

Mail Stop DD Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

Submitted herewith is a Chinese Office Action for the Examiner's consideration. The reference cited therein has been previously filed on April 12, 2004.

Respectfully Submitted,

OBLON, SPIVAK, McCLELLAND, MAIER & NEUSTADT, P.C.

Bradley D. Lytle

Registration No. 40,073

Joseph Scafetta, Jr. Registration No. 26,803

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JUL 2 9 2005 SULLY

THE STATE INTELLECTURAL PROPERTY OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Applicant	NTT DOCOMO, INC. Issue Date
Agent	Dragon International Patent Office
Application No.	June 17, 200
Title of Invention	Radio communication system, a radio station suitably used for the same

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THE NOTIFICATION OF THE FIRST OFFICE ACTION
1. In accordance with the Request for substantive examination, the examiner has made the
examination on the above patent application based on the provision in paragraph 1, Article 35 of
the PRC Patent Law.
☐ The Patent Office itself has decided to make a substantive examination for the above cited patent application based on the provision in paragraph 2, Article 35 of the PRC Patent Law.
and the control of th
2. The applicant requested to designate the filing date of
Nov. 5, 2002 in the Patent Office of <u>JP</u> as the priority date;
in the Patent Office ofas the priority date;
in the Patent Office ofas the priority date;
with the submission of certified copy of priority Document(s).
no certified copy of priority document has been received heretofore and, according to the
provisions of Article 30 of the PRC Patent Law, it is deemed that no priority right has been
requested.
3. Amendment was filed on by the applicant.
☐ The applicant submitted the amended text is not in conformity with Article 33 of
Chinese Patent Law and is unacceptable:
☐ The amended text submitted according to Article 28 or 41 of the PCT.
□ · · · · · · · · · · · · · · · · · · ·
4. Examination is made based on the Chinese translation of the original filing document.
Examination is made based on the following documentations.
page(s)of description based on the Chinese translation of the original filing
document.
Page(s) of description based on the Chinese translation of attachment of
international Preliminary Examination Report.
Page(s) of description based on the amended documents that are submitted in
accordance with Article 28 or 41 of the PCT.
Page(s) of description based on the amended documents that are submitted in
accordance with Article 51 of the Chinese Patent Law. The February Control of
☐ Item(s) of claims based on the Chinese translation of the original filing document.
Item(s) of claims based on the Chinese translation of the amended documents that

are submi	tted in accordance with Article 19 or	f the PCT.	
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	y Examination Report.		
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	e with Article 28 or 41 of the PCT.		
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be referred to in the Serial Number	Number or Title of Reference	Publication Date (or Filling Date of A	
	Number or Title of Reference Material	Conflict Patent Application)	
	Number or Title of Reference Material US 6360076B1	Conflict Patent Application) March 19, 2002.	
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paragraph 2, Article 22 of PRC Patent Law.
Claims 5-7 can not be allowed owing to lack of inventiveness based on the provision
of paragraph 3, Article 22 of PRC Patent Law.
☐ Claims can not be allowed owing to lack of practical applicability based on the
provision of paragraph 4, Article 22 of PRC Patent Law.
Claims can not be allowed based on the provision of paragraph 4, Article 26 of
PRC Patent Law.
☐ Claims can not be allowed based on the provision of paragraph 1, Article 31 of
PRC Patent Law
☐ Claims can not be allowed based on the provision of Rules 20 to 23 of the
Implementing Regulations of the PRC Patent Law.
☐ Claims can not be allowed based on the provision of Article 9 of PRC Patent Law.
☐ Claims can not be allowed based on the provision of paragraph 1, Rule 13 of the
Implementing Regulations of the PRC Patent Law.
The explanation of the conclusion is given in the attachment sheet in details
7. According to the above conclusion, it is considered that
☐ the applicant should amend the application documents based on the request in the Attachment
Sheet.
☐ the applicant should state the season on which the application can be accepted and amend the
part that is indicated not to be conformity with the requirement, otherwise the application will be
rejected.
■ No subject matter in the application is accepted, said application will be rejected if the
applicant does not make a statement or fail to make a statement.
☐ the application will be rejected if amendment of documents submitted by applicant goes
beyond the scope of patent protection
8. The applicant is drawn attention to that
(1) In accordance with the provisions of Article 37 of the Chinese Patent Law, the applicant shall
submit the observation within <u>FOUR</u> months from the date of receiving this notification. If the
applicant, without any justified reason, fails to reply within the time limit, the application shall be
deemed to have been withdrawn.
(2) The applicant shall make amendments to what is not in conformity with the provisions in the
text of this notification. The amended text shall be furnished in duplicate. The formality of the
document should be in conformity with the relative provisions of the Guidebook for Examination.
(3) The applicant and/or his attorney could not go to the PRC Patent Office to meet the examiner if
no appointment is made.
(4) Any response and/or amended specification must be mailed or sent by hand to the
receiving Department of the PRC Patent Office. Any documents that are not sent to the
Receiving Department do not have legal force.
9. The text of notification embraces 3 page(s), along with the enclosures herein:
□ 1 copy of the cited references is enclosed in page of 11.
Evenings Chanches when May 0 2005
Examiner: Shanshan chen May 9, 2005

Text of the Notification of the First Office Action

1. Independent claim 1 does not possess novelty as prescribed in the provision of Paragraph 2, Article 22 of the Chinese Patent Law.

Claim 1 asks for protection for a radio communication system performing multicast communication, but Document 1 (US6360076B1) has disclosed a radio communication system performing multicast transmission and the following technical features (see line 1, column 1 to line 67, column 3, line 59, column 4 to line 4, column 6, lines 40-51, column 6 and lines 10-25, column 7 of the description): said radio communication system performing multicast transmission from a base station to a plurality of mobile stations comprises a reception ability value collector for receiving a response information from mobile stations (see lines 19-27, column 2 of the description), said response information includes a received transmission quality tq and a type of the mobile stations, which indicates the reception ability of different mobile stations (see lines 40-51, column 6 of the description); a transmission method determiner for determining a transmission method of transmitting information including parameters for adjusting physical layer and link layer (see lines 40-42, column 5 of the description) according to the collected response information, i.e., reception ability of a mobile station; a transmitter for transmitting said information to the mobile station according to the determined transmission method (see lines 5-7, column 6 of the description); and a bandwidth optimization means, corresponding to the radio resource manager of the invention, for allocating a bandwidth to the multicast transmission (see lines 5-15, column 5 of the description). Said transmission method determiner determines a suitable transmission method according to the reception ability of a mobile station and the optimization allocation of the bandwidth, so that a mobile station with a predetermined reception ability can receive the transmitted information (see lines 5-7, column 6 and lines 10-25, column 7 of the description). Thus, Document 1 has disclosed all technical features of claim 1, and the technical solution disclosed in Document 1 and that asked for protection in claim 1 fall into the same technical field, solve the same technical problems and can achieve the same technical effects. Therefore, claim 1 does not possess novelty as prescribed in the provision of Paragraph 3, Article 22 of the Chinese Patent Law.

2. Independent claim 2 does not possess novelty as prescribed in the provision of Paragraph 2, Article 22 of the Chinese Patent Law.

Claim 2 asks for protection for a radio station, but Document 1 has disclosed a radio communication system performing multicast transmission having at least one base station, and the following technical features are also disclosed (see line 1, column 1 to line 67, column 3, line 59, column 4 to line 4, column 6, lines 40-51, column 6 and lines 10-25, column 7 of the description): said radio communication system performing multicast transmission from a base station to a plurality of mobile stations comprises a reception ability value collector for receiving a response information from the mobile stations (see lines 19-27, column 2 of the description), said response information includes a received transmission quality to and a type of the mobile stations, which indicates the reception ability of different mobile stations (see lines 40-51, column 6 of the description); a transmission method determiner for determining a transmission method of transmitting information including parameters for adjusting physical layer and link layer (see lines 40-42, column 5 of the description) according to the collected response information, i.e., reception ability of a mobile station; a transmitter for transmitting said information to the mobile station according to the determined transmission method (see lines 5-7, column 6 of the description). The transmission method determined by the transmission method determiner makes it possible that a mobile station with a best reception ability can receive the transmitted information, for example, in GPRS broadcast, if an operator transmits a video and sets 4 time slots as the minimum, then mobile stations that can only operate below 4 time slots are not capable of receiving information (see lines 10-25, column 7 of the description). Thus, Document 1 has disclosed all technical features of claim 2, and the technical solution disclosed in Document 1 and that asked for protection in claim 2 fall into the same technical field, solve the same technical problems and can achieve the same technical effects. Therefore, claim 2 does not possess novelty as prescribed in the provision of Paragraph 3, Article 22 of the

Chinese Patent Law.

3 Independent claim 3 does not possess novelty as prescribed in the provision of Paragraph 2, Article 22 of the Chinese Patent Law.

Claim 3 asks for protection for a radio station which differs from that of claim 2 only in that said transmission method determiner determines a transmission method, so that a mobile station with a worst reception ability can receive the transmitted information., But the difference has also been disclosed in Document 1 (see lines 18-21, column 7 of the description): The transmission method determined by the transmission method determiner makes it possible that a mobile station with a worst reception ability can receive the transmitted information, for example, in GPRS broadcast, if some mobile stations receive at 4 time slots and others at 8 time slots, in order to receive by maximum number of mobile stations, the radio station transmits information at 4 time slots, so that the mobile stations with a worst reception ability are able to receive information. Based on the above and the comment made on claim 2, claim 3 does not possess novelty as prescribed in the provision of Paragraph 3, Article 22 of the Chinese Patent Law.

4. Independent claim 4 does not possess novelty as prescribed in the provision of Paragraph 2, Article 22 of the Chinese Patent Law.

Claim 4 asks for protection for a radio station of which technical features correspond to the radio communication system of claim 1, and the technical features of the radio communication system of claim 1 are just those of the radio station in the system. Thus the protection scopes of claims 1 and 4 are substantially the same, and for the same reason, claim 4 does not possess novelty as prescribed in the provision of Paragraph 2, Article 22 of the Chinese Patent Law.

5. Dependent claim 5 does not possess inventiveness as prescribed in the provision of Paragraph 3, Article 22 of the Chinese Patent Law.

The additional technical features of dependent claim 5 are the well-known and practically used technology in the art, i.e., the reception ability of a mobile station may include a demodulation method, a reception buffer size, a computing processing ability, an error correction method and an interleaving length, etc.. Therefore,

dependent claim 5 does not possess inventiveness while claims 2-4 do not possess novelty.

6. Dependent claim 6 does not possess inventiveness as prescribed in the provision of Paragraph 3, Article 22 of the Chinese Patent Law.

Dependent claim 6 further defines claims 2-4. Document 1 has disclosed that various parameters may be adjusted in a downlink to change transmission quality including channel coding, power control, and spreading factor, etc. (see lines 50-65, column 8 of the description). From the disclosure, a person skilled in the art may obtain the following inspiration: that the transmission method may be defined by the modulation method, the transmission power, a method of organizing the information hierarchically, etc.. Therefore, dependent claim 6 does not possess inventiveness while claims 2-4 do not possess novelty.

7. Dependent claim 7 does not possess inventiveness as prescribed in the provision of Paragraph 3, Article 22 of the Chinese Patent Law.

The additional technical features of dependent claim 7 are the well-known and practically used technology in the art, i.e., the radio resource may be defined by the transmission power, the number of codes, the number of frequencies, etc.. Therefore, dependent claim 7 does not possess inventiveness while claims 2-4 do not possess novelty.

8. The applicant is drawn attention:

To ovoid the repeated definition of the same contents in the claims (for example, between independent claims 2-4), the claim(s) should be written in a manner referred to the preceding claim(s), if possible;

The reference signs appeared in the abstract should be put in parentheses;

"2003年" appeared on line 3, page 1 of the description should be "2002年", "移动台拉收能力值选择单元" shown by 42d in Figure 8 should be "移动台接收能力值选择单元".

Based on the above reasons, all claims of the application do not possess novelty or inventiveness and no substantial subject matter which can be granted a patent right

in the description is recorded. Therefore, even if the applicant recombines claims and/or further defines claims on the basis of the description, the application has no a prospect of being granted a patent right. The application will be rejected unless the applicant states satisfied reasons that the application possesses novelty and inventiveness within the time limit specified in the First Office Action.



中华人民共和国国家知识产权局

邮政编码: 100029 发文日期 北京市朝阳区裕民路 12 号中国国际科技会展中心 A1210 号 北京银龙知识产权代理有限公司 郝庆芬 申请号:2003101032745 申请人:株式会社 NTT 都科摩 发明创造名称:无线通信系统,用于上述系统的无线站 第一次审查意见通知书 行实质审查。 □根据专利法第35条第2款的规定,国家知识产权局决定自行对上述发明专利申请进行审查。 2. | 中请人要求以其在: JP. 2002年 11月 05日为优先权日, 专利局的申请日 专利局的申请日 年 月 日为优先权日, 年 月 专利局的申请日 日为优先权日, 月 专利局的申请日 年 日为优先权日, 专利局的申请日 年 月 日为优先权日。 ☑申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。 □申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本,根据专利法第 30 条 的规定视为未提出优先权要求。 3. 「经审查,申请人于: 年 月 日提交的 不符合实施细则第51条的规定; 年 不符合专利法第 33 条的规定: 月 日提交的 年 月 日提交的 4. 审查针对的申请文件: ☑原始申请文件。 □审查是针对下述申请文件的 申请日提交的原始申请文件的权利要求第 项、说明书第 页、附图第 页: 项、说明书第 年 月 日提交的权利要求第 页、附图第 页: 年 月 项、说明书第 日提交的权利要求第 页、附图第 页; 年 月 日提交的权利要求第 项、说明书第 页、附图第 页: 日提交的说明书摘要, 年 月 日提交的摘要附图。 5. □本通知书是在未进行检索的情况下作出的。 ☑本通知书是在进行了检索的情况下作出的。 ☑本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用): 文件号或名称 公开日期(或抵触申请的申请日) US6360076BL 2002-03-19 6. 审查的结论性意见: □关于说明书:

□申请的内容属于专利法第5条规定的不授予专利权的范围。

□说明书不符合专利法第 26 条第 3 款的规定。

□说明书不符合专利法第 33 条的规定。 □说明书的撰写不符合实施细则第 18 条的规定。
□祝明节的撰与小行音头爬细则第 10 条的观定。 □
☑权利要求 1-4 不具备专利法第 22 条第 2 款规定的新颖性。
☑权利要求 5-7 不具备专利法第 22 条第 3 款规定的创造性。
□权利要求 不具备专利法第 22 条第 4 款规定的实用性。
□权利要求属于专利法第 25 条规定的不授予专利权的范围。
□权利要求不符合专利法第 26 条第 4 款的规定。
□权利要求不符合专利法第31条第1款的规定。
一权利要求 不符合专利法第 33 条的规定。
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□权利要求不符合专利法实施细则第 23 条的规定。
上过 <u>,</u> 上述结论性意见的具体分析见本通知书的正文部分。
· 基于上述结论性意见,审查员认为:
一里请人应按照通知书正文部分提出的要求,对申请文件进行修改。
□申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由,并对通知书正文部分中指出的不符
合规定之处进行修改,否则将不能授予专利权。
□专利申请中没有可以被授予专利权的实质性内容,如果申请人没有陈述理由或者陈述理由不充分,其申
请将被驳回。
. 申请人应注意下述事项:
1)根据专利法第37条的规定,申请人应在收到本通知书之日起的肆个月内陈述意见,如果申请人无正当理
由逾期不答复,其申请将被视为撤回。
2)申请人对其申请的修改应符合专利法第33条的规定,修改文本应一式两份,其格式应符合审查指南的有
关规定。
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处,凡未邮寄或递交给受理处的文件不具备法律效力。
处的文件不具备法律效力。 4)未经预约,申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。
4) 木垒顶约,中隔入4/ 攻入连入个得间木色家为以广议局专利周与甲盘贝宁们会晤。 . 本通知书正文部分共有 3 页,并附有下述附件:
一个国对中正文部分共有 <u>3</u> 页,开间有下还的什: □引用的对比文件的复印件共 1 份 11 页。□
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审查员: 陈姗姗(9376) 2005年5月9日

第一次审查意见通知书正文

1. 独立权利要求 1 不具备专利法第二十二条第二款规定的新颖性。

权利要求 1 请求保护一种进行多地址通信的无线通信系统,对比文件 1 (US6360076B1)公开了一种进行多址传送的无线通信系统,具体公开了以下技 术特征 (参见说明书 1 栏 1 行-3 栏 67 行, 4 栏 59 行-6 栏 4 行, 6 栏 40-51 行, 7 栏 10-25 行): 所述无线通信系统从基站给多个移动站进行多地址传送,具 有接收能力值收集装置,用于从移动站接收响应信息(参见2栏19-27行), 所述响应信息包括接收的传输质量 tq 和移动站的类别, 也即表明不同的移动站 的接收能力(参见 6 栏 40-51 行),传输方法确定装置,用于根据所收集的响 应信息,也即移动站的接收能力,确定传输信息的传输方法,包括调整物理层 和链路层的参数(参见 5 栏 40-42 行),传输装置,用于根据所确定的传输方 法,发送所述信息至移动站(参见6栏5-7行),以及带宽优化装置,相当于 无线资源管理装置,用于分配多址传送的带宽(参见 5 栏 5-15 行),所述传输 方法确定装置,根据移动站的接收能力和带宽的优化分配,确定适合的传输方 法,以使具有预定接收能力的移动站能够接收所发送的信息(参见6栏5-7行, 7 栏 10-25 行), 由此可知, 对比文件 1 已经公开了权利要求 1 的全部技术特 征,并且对比文件 1 所公开的技术方案与权利要求 1 请求保护的技术方案属于 同一技术领域,解决了相同的技术问题,并能产生相同的技术效果,因此权利 要求1不具备专利法第二十二条第二款规定的新颖性。

2. 独立权利要求 2 不具备专利法第二十二条第二款规定的新颖性。

权利要求 2 请求保护一个无线站,对比文件 1 公开了一种进行多址传送的无线通信系统,具有至少一基站,具体公开了以下技术特征(参见说明书 1 栏 1 行-3 栏 67 行,4 栏 59 行-6 栏 4 行,6 栏 40-51 行,7 栏 10-25 行):所述无线通信系统从基站给多个移动站进行多地址传送,具有接收能力值收集装置,用于从移动站接收响应信息(参见 2 栏 19-27 行),所述响应信息包括接收的传输质量 tq和移动站的类别,也即表明不同的移动站的接收能力(参见6栏40-51行),传输方法确定装置,用于根据所收集的响应信息,也即移动站的接收能力,确定传输信息的传输方法,包括调整物理层和链路层的参数(参见5栏40-42,

从属权利要求 6 对权利要求 2-4 作了进一步限定,对比文件 1 公开了下行 链路中可以调整各种参数以改变传输质量,包括信道编码,功率控制,扩展因 子等 (参见第 8 栏 50-65 行) ,本领域技术人员可以由此得到启示,通过调制 方法、传输功率、构成信息分层的方法等来定义传输方法,因此,当权利要求 2-4 均不具备新颖性时,其从属权利要求6不具备创造性。

7. 从属权利要求 7 不具备专利法第二十二条第三款规定的创造性。

从属权利要求 7 的附加技术特征属于本领域技术人员的公知公用的技术, 即无线资源可以通过传输功率、代码数目、频率数目等来定义,因此,当权利 要求 2-4 均不具备新颖性时,其从属权利要求 7 也不具备创造性。

8. 提醒申请人注意:

为避免权利要求之间相同内容的不必要重复(例如独立权利要求 2-4 之间), 因此,在可能的情况下,权利要求应尽量采取引用在前权利要求的方式撰写:

摘要文字部分出现的附图标记要加括号;

说明书第 1 页第 3 行的"2003 年"应为"2002 年",图 8 中 42d"移动台 拉收能力值选择单元"应为"移动台接收能力值选择单元"。

基于上述理由,本申请的所有权利要求都不具备新颖性或创造性,同时说 明书中也没有记载其他任何可以授予专利权的实质性内容,因而即使申请人对 权利要求进行重新组合和 / 或根据说明书记载的内容作进一步的限定,本申请 也不具备被授予专利权的前景。如果申请人不能在本通知书规定的答复期限内 提出表明本申请具有创造性的充分理由,本申请将被驳回。

THE STATE INTELLECTURAL PROPERTY OFFICE OF THE PEOPLE'S REPUBLIC OF CHINA

Applicant	NTT DOCOMO, INC.	Issue Date
Agent	Dragon International Patent Office	I 17 2005
Application No.	200310103274.5	June 17, 2005
Title of Invention	Radio communication system, a radio station suitably used for the same	

THE NOTIFICATION OF THE FIRST OFFICE ACTION

1. In accordance with the Request for substantive examination, the examiner has made the examination on the above patent application based on the provision in paragraph 1, Article 35 of the PRC Patent Law
☐ The Patent Office itself has decided to make a substantive examination for the above cited patent application based on the provision in paragraph 2, Article 35 of the PRC Patent Law.
2. The applicant requested to designate the filing date of
Nov. 5, 2002 in the Patent Office of JP as the priority date;
in the Patent Office ofas the priority date;
in the Patent Office ofas the priority date;
■ with the submission of certified copy of priority Document(s).
☐ no certified copy of priority document has been received heretofore and, according to the provisions of Article 30 of the PRC Patent Law, it is deemed that no priority right has been requested.
3. ☐ Amendment was filed on by the applicant. ☐ The applicant submitted the amended text is not in conformity with Article 33 of
Chinese Patent Law and is unacceptable:
☐ The amended text submitted according to Article 28 or 41 of the PCT. ☐
4. Examination is made based on the Chinese translation of the original filing document. Examination is made based on the following documentations.
page(s)of description based on the Chinese translation of the original filing document.
Page(s) of description based on the Chinese translation of attachment of
international Preliminary Examination Report.
Page(s) of description based on the amended documents that are submitted in accordance with Article 28 or 41 of the PCT.
Page(s) of description based on the amended documents that are submitted in accordance with Article 51 of the Chinese Patent Law.
☐ Item(s) of claims based on the Chinese translation of the original filing document.
Item(s) of claims based on the Chinese translation of the amended documents that